

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**PLUMBERS, PIPEFITTERS, AND APPRENTICES  
LOCAL NO. 112 PENSION FUND, *et al.*,**

**Plaintiffs,**

**vs.**

**3:16-CV-0321  
(MAD/DEP)**

**D.J. SPRINGER, INC., JEANNETTE SPRINGER,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**BLITMAN, KING LAW FIRM**

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**Mae A. D'Agostino, U.S. District Judge:**

**MEMORANDUM-DECISION AND ORDER**

**I. INTRODUCTION**

On March 18, 2016, Plaintiffs Plumbers, Pipefitters and Apprentices Local No. 112 Pension Fund ("Pension Fund"); Plumbers, Pipefitters and Apprentices Local No. 112 Annuity Fund ("Annuity Fund"); Plumbers, Pipefitters and Apprentices Local No. 112 Health Fund ("Health Fund"); Plumbers, Pipefitters and Apprentices Local No. 112 Educational and Apprenticeship Funds ("Education and Apprenticeship Funds") (collectively, the "Funds"); Plumbers, Pipefitters and Apprentices Local No. 112 and Employers Cooperative Trust

("E.C.T."); and Local Union No. 112 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (the "Union") commenced this action against Defendants D.J. Springer, Inc. ("Defendant Corporation") and Jeannette Springer ("Defendant Springer") for failing to make contributions and deductions as required by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.*, and the Labor Management Relations Act of 1947 ("LMRA"), 29 U.S.C. § 1985. *See* Dkt. No. 1.

On July 17, 2018, the Court granted Plaintiffs' motion for default judgment. *See* Dkt. No. 52. The Court found that Defendant Corporation was liable for the amount of \$277,690.65 and Defendant Springer was liable for the amount of \$148,217.08 consisting of unpaid contributions, interest on unpaid contributions, liquidated damages, audit fees, and attorneys' fees. *See id.* at 13. In addition, the Court ordered Defendants to produce D.J. Springer, Inc.'s books and records for the period from January 1, 2017 to April 30, 2018, for Plaintiffs' review and audit. *See id.*

Currently before the Court is Plaintiffs' motion for supplemental judgment based on the audit for the period from January 1, 2017 to April 30, 2018. *See* Dkt. No. 54. For the reasons stated below, as well as those discussed in the Memorandum-Decision and Order dated July 17, 2018 (Dkt. No. 52), the Court grants Plaintiffs' motion for supplemental judgment.

## **II. DISCUSSION<sup>1</sup>**

### **A. Damages**

ERISA provides for statutory damages as follows:

(A) the unpaid contributions

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<sup>1</sup> We assume the parties' familiarity with the facts of the case, its procedural history, and the Memorandum-Decision and Order dated July 17, 2018 (Dkt. No. 52).

(B) interest on the unpaid contributions,

(C) an amount equal to the greater of —

(i) interest on the unpaid contributions, or

(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant, and

(E) such other legal or equitable relief as the court deems appropriate

29 U.S.C. § 1132(g)(2). In the present motion, Plaintiffs request additional damages, for the period from January 1, 2017 to April 30, 2018, against Defendants regarding unpaid contributions, interest on unpaid contributions, liquidated damages, audit fees, and attorney's fees. *See* Dkt. No. 54-4 at ¶¶ 5-7; Dkt. No. 54-6 at ¶ 11.

### ***1. Unpaid Contributions***

Based upon the audit report, Plaintiffs claim that Defendant Corporation owes an additional \$27,798.76 and Defendant Springer owes an additional \$27,662.02 in unpaid contributions. *See* Dkt. No. 54-1 at ¶ 8; Dkt. No. 54-2; Dkt. No. 54-4 at ¶ 5; Dkt. No. 54-6 at ¶¶ 5-7, 10-11; Dkt. No. 54-7 at 7; Dkt. No. 54-8 at 5. After reviewing Plaintiffs' supporting documents, the Court grants Plaintiffs' motion for supplemental judgment for unpaid contributions.

### ***2. Interest***

Plaintiffs also seek supplemental interest on unpaid contributions in the amount of \$6,365.61 from Defendant Corporation and \$622.41 from Defendant Springer. *See* Dkt. No. 54-6

at ¶¶ 8-11; Dkt. No. 54-7 at 7; Dkt. No. 54-8 at 5. After reviewing Plaintiffs' supporting documents, the Court grants Plaintiffs' motion for supplemental judgment for interest.

### ***3. Liquidated Damages***

Further, Plaintiffs request additional liquidated damages in the amount of \$7,084.28 from Defendant Corporation based on unpaid contributions. *See* Dkt. No. 54-6 at ¶¶ 8, 11; Dkt. No. 54-7 at 7. After reviewing Plaintiffs' supporting documents, and for the reasons set forth in the Court's July 17, 2018 Memorandum-Decision and Order, the Court grants Plaintiffs' motion for supplemental judgment as to the requested liquidated damages.

### ***4. Audit Fees***

Plaintiffs request a total of \$2,486.10 in audit fees incurred in connection with reviewing Defendants' records for the period from January 1, 2017 to April 30, 2018. *See* Dkt. No. 54-1 at ¶ 9; Dkt. No. 54-3; Dkt. No. 54-4 at ¶ 7. After reviewing Plaintiffs' supporting documents, the Court grants Plaintiffs' motion for supplemental judgment for audit fees in the total amount of \$2,486.10.

### ***5. Attorney's Fees and Costs***

Plaintiffs seek an additional of 28.65 hours in attorney's fees, 6.45 hours in paralegal work, and \$187.04 in costs and disbursements. *See* Dkt. No. 54-9 at ¶¶ 6-7; Dkt. No. 54-10 at 11. The Court finds that the number of hours Plaintiffs seek is reasonable. For the reasons explained in the Memorandum-Decision and Order dated July 17, 2018, the Court finds it reasonable to award the rate of \$240.00 per hour for an experienced attorney and \$95.00 per hour for paralegal work. *See* Dkt. No. 52 at 8-9. Further, Plaintiffs have properly supported their request for \$187.04 in costs and disbursements. Accordingly, the Court awards Plaintiffs a total of \$7,675.79 in fees, costs and disbursements.

### III. CONCLUSION

After carefully reviewing the entire record in this matter, Plaintiffs' submissions and the applicable law, and for the above-stated reasons, the Court hereby

**ORDERS** that Plaintiffs' motion for supplemental judgment (Dkt. No. 54) is **GRANTED**; and the Court further

**ORDERS** that the Clerk of the Court shall enter judgment in Plaintiffs' favor as follows:

in the amount of \$41,248.65 against D.J. Springer, Inc., consisting of (1) \$27,798.76 in unpaid contributions and deductions, (2) \$6,365.61 in interest on unpaid contributions, and (3) \$7,084.28 in liquidated damages, plus interest thereon from the date of this Memorandum-Decision and Order, in accordance with 28 U.S.C. § 1961(a);

in the amount of \$28,284.43 against Jeannette Springer, consisting of (1) \$27,662.02 in unpaid contributions, and (2) \$622.41 in interest on unpaid contributions, plus interest thereon from the date of this Memorandum-Decision and Order, in accordance with 28 U.S.C. § 1961(a);

in the total amount of \$10,161.89 against both Defendants D.J. Springer, Inc. and Jeannette Springer, consisting of (1) \$2,486.10 in audit fees, and (2) \$7,675.79 in attorney's fees and costs, plus interest thereon from the date of this Memorandum-Decision and Order, in accordance with 28 U.S.C. § 1961(a);

and the Court further

**ORDERS** that the Clerk of the Court serve a copy of this Memorandum-Decision and Order on all parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: December 10, 2018.  
Albany, New York

  
Mae A. D'Agostino  
U.S. District Judge